

REMARKS

This responds to the Office Action mailed on August 30, 2006.

Claim 1 is amended, claims 13-18 are canceled; as a result, claims 1-12 are now pending in this application.

§112 Rejection of the Claims

Claims 1-12 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. Applicant challenges this ground of rejection for the reasons set forth.

Claim 1 describes a single device which is capable of having two configurations by movement of components of the device. There is only one embodiment, not two. Using the Examiner's logic, an umbrella is actually two devices—a first device wherein the umbrella is in a closed position and a second device wherein the umbrella is in an open position. This is, of course, contrary to rules regarding claim construction. The Applicant requests that the Examiner reconsider and withdraw the rejection.

The Examiner has also objected to the use of the word, "blank." However, what is referred to is properly a blank—which is a piece of material ready to be made into something—which is foldable to form a main body having at least a first component and a second component wherein each component includes a panel and at least one leg extending from the panel, the leg or legs defining a sliding space, wherein leg or legs of the second component are moveable within sliding space of the first component so that the main body expands and contracts as the panel of the first component is moved farther from and closer to, respectively, the panel of the second component. One blank embodiment, shown in FIG. 8, is foldable to form each and every feature in the claims under consideration. The Applicant requests that the Examiner reconsider and withdraw this ground of rejection.

The Examiner has objected to claim 1 because the limitation "main body" in line 4 does not have an antecedent basis. The Applicant has amended claim 1 to introduce "main body" in line 1.

§102 Rejection of the Claims

Claims 1-3 were rejected under 35 U.S.C. § 102(b) for anticipation by Moffett, III et al. (U.S. Patent No. D448,625). As discussed in the previous response, the Moffett, III patent does not show or suggest a use of a blank foldable to form at least a first component and a second component. In order to anticipate a claim, a reference must have each and every element claimed. The Moffett II reference does not have each and every element. The Examiner has not even acknowledged that claim 1 has the feature of “a blank foldable to form at least a first component and a second component” but has instead rejected a claim that the Applicant has not proffered. The Applicant requests the Examiner to reconsider and withdraw the rejection and allow the claims

§103 Rejection of the Claims

Claim 4, 5, 6, 7, 11, 8-10, and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Moffett, III et al. in view of one or more of Canfield, White et al., Purvis, Johnston, and Schmelzer. As discussed above, the Moffett III reference does not show or suggest a blank foldable to form at least a first component and a second component. None of the other references cited by the Examiner have this feature either. Thus, Applicant asserts that one skilled in the art would not be motivated to combine these references and even if he or she did, they would not have the claimed invention embodiments. Thus, Applicant asserts that the references do not render the claims obvious.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 – EXPEDITED PROCEDURE

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under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

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CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6976 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 29 February 07

By Jahal M. Kalis

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 28th day of February 2007.

Name

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